

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

ADVANCED FIBER TECHNOLOGIES
(AFT) TRUST,

Plaintiff,

-against-

J&L FIBER SERVICES, INC.,

Defendant.

Civil Action No.: 07-01191 (LEK/DRH)

**NOTICE OF MOTION FOR
SUMMARY JUDGMENT**

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that upon the Declaration of Paul Wasikowski dated October 1, 2009 and the exhibits annexed thereto, the Declaration of David R. Cross dated October 1, 2009 and the exhibits annexed thereto, J&L Fiber's Statement of Undisputed Facts, and for the reasons set forth in the accompanying Memorandum of Law, and upon such other evidence and argument as the Court may consider, Defendant J&L Fiber Services, Inc. will move this Court before Hon. Lawrence E. Kahn, Senior United States District Judge, at the United States Courthouse, 445 Broadway, Albany, New York on November 6, 2009 at 9:30 a.m. or as soon thereafter as counsel may be heard, for an Order pursuant to Rule 56, Fed. R. Civ. P. declaring that on the undisputed facts and as a matter of law, J&L Fiber has not infringed any valid claims of U.S. Patent RE 39,940.

Dated: October 1, 2009

Respectfully submitted,

/s/ David R. Cross

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